

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
OCTOBER 7, 2014**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Cameron, Cunningham, DiDonna, Olvany, Sini, Jr., Voigt

STAFF ATTENDING: Ginsberg, Keating
RECORDER: Syat
Channel 79

Chairman Cameron opened the meeting at 8 P.M. and read the first agenda item:

PUBLIC HEARING

Special Permit Application #282, Carmen Molinos, 16 Stony Brook Road. Proposing to construct a 30' x 60' sport court and to perform related site development activities. The subject property is located on the east side of Stony Brook Road approximately 530 feet north of its intersection with West Avenue, and is shown on Assessor's Map #18 as Lot #85 in the R-1 (residential) Zone.
POSTPONED TO OCTOBER 28, 2014.

Ms. Cameron announced that the public hearing had been postponed to October 28, 2014.

Chairman Cameron read the following agenda item:

Special Permit Application #249-B, Moon Chun, 172 Heights Road. Proposing to establish a first floor law office in the space formerly occupied by Darien Krav Maga. The subject property is located on the north side of Heights Road approximately 200 feet east of its intersection with Edgerton Street, and is shown on Assessor's Map #74 as Lot #11 & #12 in the Designed Commercial (DC) Zone.
POSTPONED TO OCTOBER 28, 2014.

Ms. Cameron announced that the public hearing had been postponed to October 28, 2014.

Chairman Cameron read the following agenda item:

Continuation of Public Hearing regarding Land Filling & Regrading Application #333, Michael Glynn & Sara Hamon, 9 Hillside Avenue. Proposing to expand and extend the existing driveway, install associated retaining wall, and perform related site activities. The subject property is located on the west side of Hillside Avenue approximately 300 feet north of its intersection with Boston Post Road, and is shown on Assessor's Map #47 as Lot #29 in the R-1/3 Zone.

Mr. Sini said that he had missed the last meeting, but has reviewed the materials and the tape and is caught up on the hearing that took place already.

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Jacek Bigosinski, Project Architect, explained that the unanswered questions from the last meeting have been addressed. He said that the new stone wall to be constructed in front of the building will have a stone façade on the retaining wall. The Drainage Report has been revised and corrected and has been updated as of September 30, 2014.

Mr. Ginsberg said that the revised Drainage Plan has been reviewed by Assistant Director of Public Works, Darren Oustafine, and he is satisfied with the revisions. Mr. Voigt said that the report indicates that the proposed extension of the driveway and building will have no adverse drainage impacts on the neighbors or street according to the applicant's engineer.

There were no comments from the public regarding the application. The following motion was made: That the Commission close the public hearing on this matter and a decision will be made at a future meeting. The motion was made by Mr. Voigt, seconded by Mr. Sini and unanimously approved.

Chairman Cameron read the following agenda item:

Subdivision Application #614, Oak Crest Developers, LLC, 56 Maple Street. Proposing to subdivide the existing parcel into two parcels and perform related site development activities. The property is situated on the south side of Maple Street approximately 275 feet east of its intersection with Lillian Terrace and is shown on Assessor's Map #44 as Lot #58 & #59, located in an R-1/5 (residential) Zone.

Attorney Robert Maslan represented Oak Crest Developers, LLC. He said that this property has not previously been divided or subdivided since the adoption of the Darien Subdivision Regulations. The site is therefore eligible for a First Cut which has been reviewed and approved by the Director of Planning, Jeremy Ginsberg. He submitted a copy of Mr. Ginsberg's letter. The First Cut Map has not yet been filed on the Land Records. Attorney Maslan also submitted photographs of the site, a Letter of Authorization from the property owner, along with the letter from Mr. Ginsberg. Attorney Maslan said that the First Cut creates two parcels, one containing the existing house on the east side of the property and a smaller, vacant parcel (labeled Lot No. 1) on the west side of the site. The application to the Planning & Zoning Commission is to subdivide the larger parcel which contains the existing house, into Lots Nos. 2 and 3. He said that in 1951, the Town of Darien adopted the Subdivision Regulations and the State definition of a subdivision is when the property is divided into three or more building lots subsequent to the adoption of the Subdivision Regulations. Since this parcel has not been subject to a subdivision of three or more lots, the first cut of the west parcel is allowed as a matter of right provided the parcel size and shape complies with all the Zoning Regulations. He explained that the maps and drawings of the Tax Assessor and old survey maps are very confusing. He suggested that it would be best for the Commission to disregard the dividing line on the Assessor's maps that seems to separate Parcels 58 from 59. The Commission should view the entire parcel as one large property.

Attorney Maslan said that Lot 1 which is the vacant parcel to be created by the first cut will contain 12,341 sq.ft. Lot 2 shown on the first cut map, which contains the existing house, will contain 24,682 sq.ft. The application to the Commission is to subdivide Lot 2 into Lots 2 and 3, each of which will contain approximately 12,000 sq.ft. of land and one of which will contain the existing

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house. The Commission discussed the lot line revision which is proposed by the applicant to occur at the end of the process.

Attorney Maslan said that the development of Lot 1 will need staff approval for stormwater management and grading but the applicant has chosen to show how Lots 1, 2 and 3 will be developed.

Mr. DiDonna noted that in the R-1/5 Zone, a house only needs to be set 8 feet from each of the side lot lines as long as the total of the two side yards is at least 20 feet.

Mr. Velasco at 3 Lillian Terrace said that he and his neighbors are concerned about storm water issues because most of the property in question slopes down towards his property on Lillian Terrace.

Mr. Williams at 5 Lillian Terrace has been a resident of the area for more than 40 years. He said that he has seen a lot of flooding in the area in those years. He said that a storm sewer easement goes through his site and noted that the proposed house sites are higher than his Lillian Terrace property. He said that during recent construction of the deck on his property, it was noted that the ground water level was approximately 36 in. below the surface. This indicates a high water table. He expressed concern about where the water from houses and driveways would be directed.

John Martucci, Professional Engineer, on behalf of the applicant, explained that he has analyzed all three proposed lots, and the soil tests have been conducted and test pits have been dug on all three properties. He said that all three lots have a gravel surface that extends about 3 ft. deep. This allows for a rapid percolation of water into the ground water. They have chosen to include drywells and infiltrators in their design so that stormwater from the new structures and driveways will be managed on site rather than just being piped toward the neighbors. He said that his drawings regarding storm drainage assume that the maximum allowable Building Coverage of 20% of the lot area will occur and that long driveways will be created. His conceptual drawings do not show the actual house designs, but are a representation of the approximate size and location of the house that could be created on each property.

Mr. Martucci said that the drainage calculations work shows that there will be no increase in the peak discharge of stormwater once the sites have been developed and the drainage systems have been installed. In response to questions, he said that the test pits dug at the property are approximately 6 ft. deep, but the surface of that ground is approximately 3 ft. higher than the ground level referred to on the neighbor's property on Lillian Terrace. He also noted that even if there is no development of the property, some of the rain water will soak into the ground and much of the rain water landing on the subject property does run off toward the neighbors' properties and into the ground water in the vicinity.

Commission members noted that drainage design takes into account a 20% Building Coverage which is the maximum allowed, but the inclusion of patios or longer driveways or other structures would need to be calculated in if the actual development differs from what has been submitted.

Mr. Olvany noted that the Drainage Report refers to a ½ acre lot even though each of the parcels will be just over a fifth of an acre in size. Mr. Martucci said that he would correct that error. In

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response to questions, Mr. Martucci also noted that the hydrographs depict drainage areas 1, 2 and 3 and that the drainage areas are not coincidental with the size or shape of the proposed lots 1, 2 and 3.

Attorney Maslan said that they have submitted the First Cut Map and will be meeting with the Sewer Commission in the near future. The Sewer Commission has already approved the concept of extending the sanitary sewers to this property and now the applicant must work out the engineering details to make sure that it will be properly implemented to the satisfaction of the Sewer Commission.

There being no further comments from the public or applicant and no further questions from the Commission, the following motion was made: That the Commission close the public hearing regarding this matter and a decision will be made at a future meeting. The motion was made by Mr. Olvany, seconded by Mr. DiDonna and unanimously approved.

Chairman Cameron read the following agenda item:

Special Permit Application #170-D/Site Plan, Pure Barre, 313 Heights Road. Proposal to establish a personal service (fitness studio) use in the first floor space formerly occupied by Gut Reaction within the Noroton Heights Shopping Center. The subject property is located on the north side of Heights Road approximately 300 feet east of its intersection with Hollow Tree Ridge Road, and is shown on Assessor's Map #75 as Lot #22-#24 in the Designed Commercial (DC) Zone.

Kristin McClutchy explained that she is proposing to open an ballet oriented exercise and class studio within the Heights Road commercial area. The studio use is described in her application materials.

Mr. Ginsberg said that he met with representatives of Palmer's at the site and they will encourage patrons to park on the interior parking spaces rather than those immediately adjacent to Heights Road. Thus, the Heights Road parking spaces would be available for the patrons of the retail stores.

Mrs. McClutchy said that she is proposing to rent approximately 1,240 sq.ft. Approximately 800 square feet will be a studio, approximately 200 sq. ft. will be retail space and approximately 200 sq. ft. will be for office and storage area.

Mr. Ginsberg explained that the Special Permit is being requested because this type of personal service business is not allowed in the DC Zone unless the Special Permit is approved by the Commission. He said that the Parking Regulations require the same amount of on-site parking for retail use and personal service business.

Mrs. McClutchy said that her business will be busiest during the early morning or after work. In the written application materials, it indicates that there will be a maximum of 20 people. However, she said that the typical class would be 15 people and the maximum number would actually be 25 clients in a class. She also noted that there would be a 15 minute gap between the end of one class and the beginning of the next class.

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There were no comments from the public regarding the pending application. The following motion was made: That the Commission close the hearing and will render a decision on this matter at a future date. The motion was made by Mr. Olvany, seconded by Mr. Cunningham and unanimously approved.

GENERAL MEETING

Chairman Cameron opened the General Meeting and read the following agenda item:

Discussion and deliberation and possible decision on the following:

Proposed Amendment to Darien Zoning Regulations put forth by Penelope Glassmeyer.

Proposing to amend the Darien Zoning Regulations by establishing an overlay zone that would apply to larger sites in the R-1 Residence Zone served by public water supply and sanitary sewer. It would allow multi-family age-restricted developments by Special Permit in the R-1 Zone, if the overlay zone is placed upon a property. *DECISION DEADLINE: 10/7/2014.*

The following motion was made: That the Commission waive the process of reading the Draft Resolution aloud because each member has had an opportunity to review the draft prior to the meeting. The motion was made by Mr. Voigt, seconded by Mr. Cunningham and unanimously approved. The Commission members discussed the Draft Resolution and made several clarifications and modifications that were agreed to by all members. The following motion was made: That the Commission adopt the following motion to approve the change to the Zoning Regulations subject to the modifications and clarifications as noted. The motion was made by Mr. Olvany, seconded by Mr. DiDonna and unanimously approved. The new Regulations will become effective at 12:00 Noon on Sunday, October 26, 2014. The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 7, 2014**

Application Number: Proposed Amendments to Zoning Regulations (COZR #2-2014)

Application Put Forth by: Penelope Glassmeyer

Name and Address of:
Applicant: Penelope Glassmeyer
23 Butler's Island Road
Darien, CT 06820

Name and Address of:
Applicant's Representative: Robert F. Maslan, Jr., Esq.
Maslan Associates
30 Old King's Highway South
Darien, CT 06820

Activity Being Applied For: Proposing to amend the Darien Zoning Regulations by establishing an overlay zone that would apply to larger sites in the R-1 Residence Zone served by public water

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supply and sanitary sewer. It would allow multi-family age-restricted developments by Special Permit in the R-1 Zone, if the overlay zone is placed upon a property.

Property is located at: This regulation amendment as proposed by Penelope Glassmeyer would potentially apply to properties within R-1 zone within the Town of Darien, which are of the minimum lot size outlined in the proposed amendment and are served by public water and sewer. The decision herein modifies only the Darien Zoning Regulations to create an overlay zoning district, but does not apply that overlay zone to any particular property or location.

Date of Public Hearings: June 24, 2014 continued to July 15, 2014,
July 29, 2014 and July 31, 2014

Deliberations held: September 2, 2014 and September 9, 2014 and September 23

Time and Place of Public Hearings: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: June 13 & 20, 2014

Newspaper: Darien News

Date of Action: October 7, 2014

Action: **ADOPTED WITH MODIFICATIONS**

**THIS REGULATION AMENDMENT WILL TAKE EFFECT ON
SUNDAY, OCTOBER 26, 2014 AT TWELVE NOON.**

Scheduled Date of Publication of Action:

October 17, 2014

Newspaper: Darien News

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The subject application is to amend the Zoning Regulations to create an Overlay Zone which could then be applied to certain properties within the R-1 Zone at the sole discretion of the Planning & Zoning Commission. The proposed amendment would allow a higher density of housing for people that are 62 years of age and older, while restricting the size, location and placement of dwelling units on the site. This could provide additional housing opportunities for this targeted population.
2. Any proposed use of this Overlay Zone will require Special Permit and Site Plan approval from the Planning & Zoning Commission. Any proposed development using these Regulations would be subject to a Special Permit requirement, and the Planning & Zoning Commission would need to make positive findings regarding traffic, noise, intensity of use, consistency with surrounding property uses, maintaining existing community character and other factors. There shall be special controls applicable that would include having only one primary driveway, and possibly an emergency access driveway if needed or required by the Commission.

ISSUES REGARDING PROVISION OF PUBLIC WATER & SEWER

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3. One of the provisions of the proposed overlay zone is that the property be served by public water and public sanitary sewers. It was noted that sanitary sewers already serve nearly all properties within the R-1 Zone. The Commission agrees with the applicant, that in order to protect public health, this is an essential provision of the proposed Regulations.

ISSUES REGARDING AGE LIMITATIONS

4. At the public hearing, the applicant's representative, Attorney Robert Maslan, said that the age 62 restriction would be applicable because Federal and State laws prevent discrimination based on age or familial relations except for persons that are 62 years of age and older. Condominium documents and/or deed restrictions would include restrictions on the age of residents and the monitoring and reporting requirement to the Town to make sure that the units are continuously used in compliance with the Zoning Regulations. The Town shall require that the deed restrictions be included in the Darien Land Records and that compliance reports be periodically submitted. The definition of elderly as age 62 or over is a current definition within Section 210 of the Zoning Regulations. The Commission believes that any such development shall only include recreation facilities that are designed for adult use by the targeted population, not for children.
5. The Commission agrees with the applicant's representative, and believes that the minimum age should be 62 and therefore all residents in such a development would need to comply with that standard.

ISSUES REGARDING MINIMUM LOT SIZE REQUIRED

6. The proposal includes a minimum lot size required of 130,000 square feet. This is 2.984 acres. In reviewing the Zoning Regulations, the Commission notes that all minimum lot sizes for zones in Darien are in acres or fractions of acres and are not rounded down to 'a builder's acre' or otherwise rounded down. Acreage is the unit of measure most used for lot sizes under the Darien Zoning Regulations. For the sake of consistency, the Commission believes that a three (3) acre minimum lot size would be appropriate for this type of development.

ISSUES REGARDING AREAS OF TOWN SUBJECT TO OVERLAY ZONE

7. At the public hearing, it was noted that there are several properties in Darien, other than the applicant's property, which might be of sufficient size to potentially qualify for the new Overlay Zone. However, it was further noted that none of these properties would be subject to this Regulation Amendment unless a specific application is made to the Planning & Zoning Commission and the Commission adopts the Overlay Zone for those particular properties, which would then still be subject to the requirements of this Regulation, and to Special Permit review. There might be other situations where smaller parcels could be assembled and result in land area of three acres or more. The Commission understands that because this Regulation amendment could potentially apply to many properties in Town, it could represent a substantial change to the single-family neighborhood character of certain areas within Darien. However, it is the intention of the Commission that this Regulation amendment shall be applied so as to preserve the single-family residential character of the surrounding area.

ISSUES REGARDING BUILDING SIZE

8. The proposed Regulation amendment provides that in order to qualify, a property must be at least 130,000 square feet in area, which is less than three acres in size. The minimum lot depth

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and frontage requirements of the R-1 Zone would apply but the proposed Building Coverage would be limited to 15% of the lot area (as opposed to 20% normally allowed in the R-1 Zone) and the buildings would be limited to only 2 stories of above-grade occupied space (as opposed to 2 ½ allowed in the R-1 Zone). A limit on dwelling unit size is also included in the provisions.

9. In a July 10, 2014 letter, the applicant's representative suggested a Maximum Finished Floor Area of 3,000 square feet per dwelling unit, above grade. The Commission believes that this limit is appropriate and in keeping with this Regulation. The two and a half story limit adopted herein will allow finished space in up to one-half of the basement, but no finished space in the attic. The Commission believes that since an attic cannot be finished, that a 28 foot building height is appropriate, and also is consistent with the DCR Zone.

ISSUES REGARDING NUMBER OF UNITS/DENSITY

10. There was discussion regarding the maximum density that should be allowed and whether the density bonus of the inclusionary housing provision (Section 580 of the Regulations) should be applicable in addition to the increase in density afforded by the proposed Regulation amendment. The Commission believes that all of Section 580 bonus provisions should not apply to applications submitted under Section 430.
11. The Commission believes that there should be a limit of no more than two (2) units per acre developed or built within the R-1 zone with the use of this overlay zone. The Commission has included in the Regulations a specific chart/formula listing how many affordable units shall be constructed/acquired and deed-restricted, in relation to the number of market-rate units approved. Any below market rate units constructed on-site shall be comparable to the market-rate units constructed in terms of the total minimum size, total minimum number of bedrooms and bathrooms, and the adopted regulations include specifics regarding the size of the below market rate units.

ISSUES REGARDING CONSERVATION AREA/OPEN SPACE AND PARKING

12. One proposed provision is the requirement for a conservation easement on the property. The Commission agrees with requiring such a provision so that at least ten percent of the total lot area be preserved as conservation area, which will enable any applicant to permanently protect any natural features on-site.
13. Another issue that was discussed during the public hearing was the minimum parking requirements to be included in the proposed regulations. Section 904 outlines various off-street parking space requirements for various uses. The proposed overlay zone would allow one and two-family residences for the elderly, and thus, the Commission must decide whether Section 904a or 904c is appropriate to reference. Section 904c requires at least 1.5 parking spaces per elderly housing unit and Section 904a requires at least two parking spaces for each single family or two-family residence. The Commission believes that Section 904a is appropriate in this zone. The Regulations specify minimum numbers of parking spaces that are required, but additional on-site parking spaces could be created as conditions might dictate.

COMMENTS REGARDING THE LOCUST HILL ROAD/SETTLER'S TRAIL PROPERTY

14. At the public hearing, there was some discussion about the conceptual plan for the property owned by Knobel Hill LLC on Locust Hill Road, at the corner of Settler's Trail. That

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conceptual plan showed five or six buildings with one access driveway from Settler's Trail. This conceptual plan is not sufficient for the Commission to act upon. If the subject application to amend the Regulations is adopted, then a very detailed site specific plan would need to be provided. A request to amend the Zoning Map to have the overlay zone be applicable to a specific site, and a Special Permit application and a Site Plan application would then be submitted to the Commission for review and action regarding any particular property.

15. The Commission acknowledges that no formal site plan or special permit application was submitted as part of this application. The conceptual plan shown to the Commission is entitled, "Conceptual Development for Overlay Zone" and is dated June 23, 2014. It is sufficient for the Commission to understand conceptually how a development might occur on that property. However, that plan does not provide details of how the development would actually take place, and further details would be needed to see if the plan complies with the provisions adopted herein.

CONSISTENCY WITH 2006 TOWN PLAN OF CONSERVATION & DEVELOPMENT

16. There are numerous sections of the Town Plan of Conservation & Development that are relevant to the proposed amendment. Those sections were submitted as part of the application, and other information regarding demographic characteristics of Darien were also submitted by the applicant's representative in support of the need for this type of housing.
17. Page 1-2 of the 2006 Town Plan of Conservation & Development states, "Change in the Town's demographics may have an influence on the Darien Zoning Regulations. Zoning regulations conversely may also affect demographics. For example, changes in housing policy through the Zoning Regulations, such as allowing accessory apartments, or rezoning portions of the Town, may result in subsequent population increases as a result of new and/or different types of housing units being allowed and constructed." In this case, providing dwelling units specifically designated for a growing demographic within Darien addresses a need within the community.
18. The 2006 Town Plan of Conservation and Development supports the creation of housing for Darien residents 62 years of age and older. Page A1-3 of the Plan shows a gradual increase in the over-65 population from 2,036 in 1980 to 2,436 in 2000. Recommendation 13 on page 9-5 of the Plan notes that "as trends change through time, the Commission should consider methods to accommodate such in the Darien Zoning Regulations. Examples include...senior housing developments, cluster housing . . . , and larger condominiums. The Zoning Regulations should continue to be reviewed to ensure that they meet the changing demographic needs of the community, while maintaining existing community character." Page A9-5 contains the following statement: "Where logical, the Commission should consider rezoning properties for use as either senior housing or for condominiums."
19. Section 8-3(d) of the Connecticut General Statutes requires that notice of this decision be published in a local newspaper, and a copy of the regulation change be filed with the Town Clerk prior to the zoning regulation amendments taking effect.

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NOW THEREFORE BE IT RESOLVED that ***Proposed Amendments of the Darien Zoning Regulations*** establishing a new “Active Senior Residential Overlay Zone” is ADOPTED WITH MODIFICATIONS WITH AN EFFECTIVE DATE OF SUNDAY, OCTOBER 26, 2014 AT TWELVE NOON.

(The inside cover page of the Zoning Regulations, the Table of Contents, and Appendix C-Schedule of Amendments also shall be modified accordingly)

The approved wording for this Section is as follows:

New wording in bold, deletions in strikeout:

SECTION 430. ACTIVE SENIOR RESIDENTIAL OVERLAY ZONE

431. Background and Purposes

Housing for active senior “empty nesters” is an important element of residential development within the Town. Such housing enables older residents to continue to reside in Town by living in specially designed single-family residences. The Active Senior Residential Overlay Zone allows the development of such dwellings, by permitting increased density on larger parcels in the R-1 Zone, while preserving the single-family residential character of the surrounding area. Increased density on larger lots, combined with strict limitations on building coverage and height, provides opportunities for active senior housing. Developments approved pursuant to this Section shall comply with the requirements of the federal Fair Housing Act (42 U.S.C. §§ 3600-3620) and similar state statutes (e.g., CGS 46a-64b, 46a-64c) that pertain to housing for persons sixty-two (62) years of age and older.

432. Uses Requiring Special Permits

The following uses shall be permitted subject to approval of a Special Permit in accordance with Section 1000 and the standards set forth below:

- a. Housing for those age 62 and older shall be permitted by Special Permit only on properties that meet all of the following criteria contained in this Section 430, including Accessory uses allowed in the R-1 Zone.

433. Site Requirements—Basic Services

All development proposed under this Section shall give due consideration to proximity to services such as public utilities, available forms of public transportation within the community, shopping facilities, and access to major highways and commuter roads. An analysis of the availability of such services shall be submitted as part of any application to demonstrate that the requirements of this Subsection have been fulfilled. At a minimum, the site must be:

- a. in the R-1 Residence Zone;
- b. of at least three acres in size; and
- c. served by public water and public sanitary sewer of sufficient capacity to serve the development.

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434. Age Restriction

All dwellings allowed under this Section 430 shall be occupied only by persons age 62 years of age or older. Prior to the issuance of a Zoning Permit for commencement of construction, a restrictive covenant or declaration identifying the location and unit number and street address and current owner(s) (or occupants if a rental unit) of each dwelling unit and describing the age restriction must be recorded on the Darien Land Records. The deed restriction or declaration must be approved by the Planning and Zoning staff and Town Counsel prior to being recorded on the Darien Land Records, and shall be binding upon all future use of the dwelling(s).

435. Area and Bulk Requirements

The following requirements shall be deemed to be the minimum or maximum requirement in every instance of their application. Dimensions are in feet unless otherwise indicated.

1. Minimum Lot Area	3 acres
2. Minimum Lot Width	200 feet
3. Minimum Street Frontage	200 feet
4. Minimum Lot Depth	200 feet
5. Minimum Front Yard	40 feet
6. Minimum Side Yard- each side	25 feet
7. Minimum Side Yard- total of two sides	50 feet
8. Minimum Rear Yard	40 feet
9. Accessory Structures	
9A. Minimum Distance from Front Lot Line	40 feet
9B. Minimum Distance from Side Lot Line	25 feet
9C. Minimum Distance from Rear Lot Line	40 feet
10. Maximum Height in Stories (see Note 1)	2 ½ stories
11. Maximum Height in Feet	28 feet
12. Maximum Building Coverage	15%
13. Maximum Developed Site Area (see Note 2)	60%
14. Minimum Distance between Structures	20 feet
15. Maximum Finished Floor Area per Dwelling Unit (see Note 1 and Section 438c)	3,000 square feet
16. Maximum Number of Dwelling Units (round down to the nearest whole number. See Section 438e)	2 per acre

Note 1: The Regulations allow for the finishing of up to ½ of the basement. No attic space is allowed to be finished at all. Any finished space in the basement does not count towards the 3,000 square foot maximum in Item 15.

Note 2: The definition of Developed Site Area set forth in Section 210 shall apply to developments created under this Section.

Note 3: Each elderly below market-rate housing unit required to be constructed or acquired shall be at least 800 square feet in size, and the average size of all of the

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elderly below market rate housing units associated with the development shall be equal to or greater than 50% of the average size of the on-site market rate units within the development. Each elderly below market-rate housing unit shall be no less than 800 square feet in size, and have no less than the average of the number of bedrooms in the on-site market rate units, rounded down. See Section 438 regarding below market rate housing units.

436. Special Controls

- a. One common driveway shall serve all dwelling units and structures on the site, provided that the Commission may require an additional means of access for emergencies only.
- b. No structures, terraces, swimming pools, or sports courts shall be located within the minimum yard areas.
- c. All required yards shall consist of natural or landscaped screening from abutting properties and streets. The minimum 25 foot buffer requirements of Section 944 shall apply to this Special Permit use within the R-1 Zone.
- d. Only single-family and two-family dwellings shall be permitted. No more than two dwelling units shall be located within the same building.
- e. On-site parking shall be provided in accordance with Section 904a.
- f. Finished, occupied space shall be located only on up to two and one-half (2-1/2) levels within a building (the first floor and second floor and a portion of the basement), but not in an attic. Any attic shall remain unfinished and shall be used only for mechanical equipment and/or for storage.

437. Conservation Area Requirement

Developments under this Section shall include an area of at least ten (10) percent of the total lot area as conservation area, subject to a conservation easement recorded on the Darien Land Records. The conservation easement area may include some or all of the required buffer area as well as other portions of the site as may be appropriate. The conservation easement document shall be approved by the Planning and Zoning staff and Darien Town Counsel, and recorded on the Land Records prior to the issuance of Zoning and Building Permits for construction of new structures on the development site.

438. Requirement for below-market rate units

- a. A below market rate dwelling unit is one which is affordable to households with an income equal to or less than 80 percent of the State Median Income for the State of Connecticut. All below market rate units constructed (or acquired) and deed-restricted under this Section shall comply with the age restrictions in Section 433.

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- b. To calculate the minimum number of elderly below market rate units required to be constructed (or acquired) either on-site or off-site and deed-restricted, the following shall apply:
- Less than 5 market-rate elderly units: 0 elderly below market rate units
 - 5-6 market-rate elderly units: 2 elderly below market rate units
 - 7-9 market-rate elderly units: 3 elderly below market rate units
 - 10-12 market-rate elderly units: 4 elderly below market rate units
- One elderly below market rate unit shall be constructed (or acquired) and deed-restricted for each three elderly market rate units thereafter. (Round any fractional requirement for below market rate units up to the nearest whole number).
- c. Each elderly below market-rate housing unit required to be constructed or acquired must comply with both of the following requirements: a) the average size of all the below market-rate units shall be at least 50% of the average size of the on-site market rate elderly units constructed; and b) each unit shall not be less than 800 square feet in size. Any on-site elderly below market rate housing unit shall have no less than the average of the number of bedrooms in the on-site market rate units, rounded down.
- d. Section 580 (Inclusionary Zoning) provisions for incentives, density bonus, and for requiring below market rate dwelling units are not applicable to the use of the Active Senior Residential Overlay Zone, since this overlay zone has a separate below market rate requirement.
- e. The total number of units on-site (market rate and below market-rate) shall not exceed a density of 2.0 per acre in the R-1 Zone. Any additional required below market-rate units beyond that density must be constructed or acquired off-site.

439. Program Administration

The administration of the below market rate unit(s) shall comply fully with Sections 586 and 587 of the Darien Zoning Regulations.

440. Consistency with Other Regulations

To the extent not modified by this Section 430, all other zoning regulations governing development within the R-1 Residence Zone shall apply to developments under this Section 430.

Chairman Cameron read the following agenda item:

Land Filling & Regrading Application #334, Wilhem Darien, LLC., 14 Patricia Lane. Proposing to raze the existing residence and construct a new single-family residence with associated filling,

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regrading, and stormwater management, and perform related site development activities.
DECISION DEADLINE: 11/27/2014.

Commission members reviewed the draft Resolution and made several modifications and clarifications that were agreed to by all the members. It was noted that the Engineering Report had been revised and corrected and that the residence has been removed. The following motion was made: That the Commission adopt the following Resolution to adopt the project subject to the conditions and stipulations as noted. The motion was made by Mr. Sini and seconded by Mr. Olvany. All voted in favor except Mr. Cunningham who abstained because he had not been present at the public hearing. The motion was passed by a vote of 5 to 0 to 1. The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 7, 2014**

Application Number: Land Filling & Regrading Application #334

Street Address: 14 Patricia Lane
Assessor's Map #43 Lot #82

Name and Address of Property Owners: (at time of public hearing)	Wilhem Darien, LLC. 14 Patricia Lane Darien, CT 06820
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Name and Address of Applicant & Applicant's Representative:	Mark Lebow William Seymour & Associates 170 Noroton Avenue Darien, CT 06820
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Activity Being Applied For: Proposing to raze the existing residence and construct a new single-family residence with associated filling, regrading, and stormwater management, and perform related site development activities.

Property Location: The subject property is located on the west side of Patricia Lane approximately 550 feet north of its intersection with Dubois Street.

Zone: R-1/3

Date of Public Hearing: September 23, 2014

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices Dates: September 12 & 19, 2014	Newspaper: Darien News
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Date of Action: October 7, 2014	Action: APPROVED WITH CONDITIONS
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Scheduled Date of Publication of Action: October 17, 2014	Newspaper: Darien News
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The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 850, and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to construct a new single-family residence with associated filling, regrading, and stormwater management, and perform related site development activities.
2. The Commission notes that the amount of new impervious surface proposed as part of this application is an increase over prior on-site conditions. A stormwater management plan consisting of underground concrete galleries has been prepared by McChord Engineering Associates. The stormwater management proposed will result in a reduction in the peak rate of runoff from the property. At the public hearing, the Commission noted some inaccuracies within the submitted Stormwater Management Report dated August 11, 2014 that must be corrected.
3. The Zoning Board of Appeals (ZBA) granted a variance for this project on September 17, 2014. That approval is hereby incorporated by reference.
4. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
5. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling & Regrading Application #334 is hereby approved subject to the foregoing and following conditions, modifications and understandings:

- A. Work shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
 - “Zoning Location Survey/Topographic Survey 14 Patricia Lane prepared for Hemingway Construction”, scale 1”=10’, by William W. Seymour & Associates, dated June 25, 2014.
 - Site Development Plan, 14 Patricia Lane, Plan Prepared for Hemingway Construction, by McChord Engineering Associates, Inc., dated August 13, 2014, Drawing No. SE1.
- B. Prior to the start of any filling and regrading work and prior to the issuance of a Zoning or Building Permit for the foundation of the new residence, corrections shall be made to the Stormwater Management Report as noted by the Commission at the public hearing, and one copy submitted to the Planning and Zoning office for the file in this matter.
- C. During construction, the applicant shall utilize the sediment and erosion controls illustrated on Sheet SE1 of the plans prepared by McChord Engineering Associates, and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or

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restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.

- D. By December 7, 2014 (within the next 60 days and prior to the issuance of a Zoning Permit for the house foundation) a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 14 Patricia Lane to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the start of any filling or regrading work in the back yard.
- E. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. Prior to the request for the Certificate of Occupancy (CO) for the residence, the applicant shall submit verification from a professional engineer in writing and/or photographs that all aspects of the stormwater management system have been completed in compliance with the approved plans referred to in Condition A, above. An as-built drainage report is also required.
- F. Also prior to the issuance of a Certificate of Occupancy (CO) for the residence, the applicant's surveyor shall prepare and submit an as-built survey of the topography on the property, showing one foot contours and sufficient spot elevations to illustrate to the Commission that all grading has been accomplished pursuant to the approved plans.
- G. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This includes, but is not limited to, a Street Opening Permit from the Public Works Department and a Sewer Connection Permit for the new residence from Sewer Services.
- H. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- I. This permit shall be subject to the provisions of Section 858 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (October 7, 2015). This may be extended as per Section 858.

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Special Permit form and "Notice of Drainage Maintenance Plan" shall be filed in the Darien Land Records within 60 days of this action and prior to the issuance of a Zoning or Building Permit for the new residence, or this approval shall become null and void.

Chairman Cameron read the following agenda item:

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Coastal Site Plan Review #74-C, Flood Damage Prevention Application #327-A, Land Filling & Regrading Application #305-A, Hamilton & Anabel James, 50 Contentment Island Road.

Proposing to replace/expand existing patio/terrace; raise grade at rear of residence; modify driveway; install landscaping; and perform related site development activities within regulated areas. *DECISION DEADLINE: 11/27/2014.*

Commission members reviewed the draft Resolution. The following motion was made: That the Commission members adopt the following Resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Sini, seconded by Mr. Voigt and unanimously approved. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 7, 2014**

Application Number: Coastal Site Plan Review #74-C
Flood Damage Prevention Application #327-A
Land Filling & Regrading Application #305-A

Street Addresses: 50 Contentment Island Road
Map #68 as Lot #22

Name and Address of:
Property Owner: Hamilton & Amabel James
50 Contentment Island Road
Darien, CT 06820

Name and Address of
Applicant's Representative: Jeffrey McDougal
William W. Seymour & Associates
170 Noroton Avenue
Darien, CT 06820

Name and Address of
Applicant: Kolkowitz-Kusske | ALA
23 Cudlipp St.
Rowayton, CT 06853

Activity Being Applied For: Proposing to replace/expand existing patio/terrace; raise grade at rear of residence; modify driveway; install landscaping; and perform related site development activities within regulated areas.

Property Location: The subject property is located on the south side of Contentment Island Road approximately 1,500 feet south of its intersection with Shennamere Road.

Zone: R-1

Date of Public Hearing: September 23, 2014

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Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: September 12 & 19, 2014

Newspaper: Darien News

Date of Action: October 7, 2014

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
October 17, 2014

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The applicant proposes to replace, raise, and expand existing patio/terrace behind the house; raise the grade at the rear of the residence; remove some of the patios near the boathouse, modify the driveway by replacing it with a permeable surface; install landscaping; and perform related site development activities within regulated areas.
2. A memo was submitted for the record dated September 19, 2014 from Rich Jacobson, EPC staff. In that memo, it was noted that the driveway work does not require review or action by the EPC, since it is permitted as a non-regulated use—it is “incidental to the enjoyment or maintenance of a residential property”. That memo also mentioned that the wetlands along the eastern property boundary (which may be inland wetlands or tidal wetlands) should be shown on the plans. Revised plans should denote the location of these wetlands.
3. The amount of new impervious surface as part of this project is offset by the change of the now-impervious/asphalt driveway with a pervious GravelPave2 material. As part of the application, the applicant’s professional engineer submitted a Drainage Summary Report, Project Narrative & Engineering Report and an associated Coastal Area Management Review & Analysis.
4. The site is within the Coastal Boundary established within 1000 feet of Mean High Water of Long Island Sound and its tidal influenced waters. The proposed work will not have any adverse impacts on coastal resources.

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5. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
6. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
7. As noted on page 1 of the Drainage Summary Report, Project Narrative & Engineering Report, the proposed patio wall foundation will be properly engineered to prevent collapse or flotation. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties and, therefore, this proposal is consistent with the need to minimize flood damage.
8. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
9. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
10. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures that would mitigate any adverse impacts by the proposed activity on coastal resources.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #74-C, Flood Damage Prevention Application #327-A, and Land Filling & Regrading Application #305-A are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the following plans entitled:
 - Proposed Site Plan prepared for Hamilton E. & Amabel B. James, 50 Contentment Island Road, by Frangione Engineering, LLC, dated August 11, 2014, Sheet No. S1.
 - Details & Notes prepared for Hamilton E. & Amabel B. James, 50 Contentment Island Road, by Frangione Engineering, LLC, dated August 11, 2014, Sheet No. S2.
 - Zoning Location & Topographic Survey 50 Contentment Island Road prepared for Hamilton E. James Amabel B. James, by William W. Seymour & Associates, revised August 5, 2014.
 - Masterplan Landscape Layout and Architectural Planning, James Residence 50 Contentment Island Road, last revised 8/06/14, Sheet L-1.The Commission is requiring that revised plans be prepared reflecting the existing on-site inland or tidal wetlands near the eastern property line. Those revised plans shall be submitted to the Planning and Zoning Office prior to the start of any on-site work.
- B. Because of the minor nature of the land filling and regrading portion of this project, a performance bond for the filling and regrading is hereby waived.
- C. Due to this property's specific location within the watershed and the nature of the proposed work, the Commission hereby waives the requirement for stormwater management.

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- D. During construction, the applicant shall utilize the sediment and erosion controls illustrated on Sheets S1 and S2 of the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- E. By December 7, 2014 (within the next 60 days and prior to the start of any on-site work) a Drainage Maintenance Plan for the pervious driveway shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 50 Contentment Island Road to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the start of any filling or regrading work in the back yard.
- F. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- G. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- H. This permit shall be subject to the provisions of Sections 815, 829f, and 1009 of the Darien Zoning Regulations, including but not limited to, submission of certification from a professional engineer regarding the installation of the GravelPave2 driveway. Implementation and completion of the approved plans for site work, and regrading shall be within one year of this action (by October 7, 2015). This may be extended as per Sections 815, 829f, and 1009.

All provisions and details of the plans, as required to be modified herein in Condition A, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Drainage Maintenance Plan and Special Permit form shall be filed in the Darien Land Records within 60 days of this action AND prior to the start of work, or this approval shall become null and void.

Chairman Cameron read the following agenda item:

Coastal Site Plan Review #296-A, Flood Damage Prevention Application #336-A, James & Elizabeth Lee, 19-23 Contentment Island Road. Proposal to rebuild and extend existing sitting

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wall; install fire pit with associated patio; and perform related site activities within regulated areas.
DECISION DEADLINE: 11/27/2014.

Commission members reviewed the draft Resolution. The following motion was made: That the Commission approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Sini, seconded by Mr. Voigt and unanimously approved.

The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
OCTOBER 7, 2014**

Application Number: Coastal Site Plan Review #296-A
Flood Damage Prevention Application #336-A

Street Address: 19-23 Contentment Island Road
Assessor's Map #67 Lot #58

Name and Address of Applicant &: James & Elizabeth Lee
Property Owner: 23 Contentment Island Road
Darien, CT 06820

Name and Address of: Doug DiVesta, PE
Applicant's Representative: DiVesta Civil Engineering Assoc.
51 Painter Ridge Road
Roxbury, CT 06783

Activity Being Applied For: Proposal to rebuild and extend existing sitting wall; install fire pit with associated patio; and perform related site activities within regulated areas.

Property Location: The subject property is located on the east side of Contentment Island Road, approximately 450 feet northeast of its intersection with Shennamere Road.

Zone: R-1

Date of Public Hearing: September 23, 2014

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices
Dates: September 12 & 19, 2014

Newspaper: Darien News

Date of Action: October 7, 2014

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
October 17, 2014

Newspaper: Darien News

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The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to rebuild and extend existing sitting wall; install fire pit with associated patio; and perform related site activities within regulated areas. The fire pit will be set on a bluestone patio. A fieldstone wall will replace the existing brick wall, and that will connect to the existing wall at 23 Contentment Island Road. The wall is within 100 feet of Mean High Water, thus Commission review and action is needed. The fire pit with associated 20' x 20' flagstone area is proposed at 23 Contentment Island Road, approximately 135 feet from Mean High Water.
2. The proposed activities, to be implemented with the conditions listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties.
3. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
4. The proposed activity is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes.
5. The potential adverse impacts of the proposed activity on coastal resources are acceptable.
6. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #296-A and Flood Damage Prevention Application #336-A are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the plans submitted to and reviewed by the Commission entitled:

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- Proposed Alterations to The Lee Residence 23 & 19 Contentment Island Road, by J. P. Franzen Associates Architects, last updated 9-17-14, Drawing No. SP-1.
- B. Because of the minor nature of the site work involved in this project, the Commission hereby waives the requirement for a performance bond.
- C. Due to this property's location adjacent to Long Island Sound, and the fact that the amount of new impervious surface is less than 400 square feet, the Commission waives the requirement for stormwater management.
- D. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the submitted Franzen Associates Architects plans in Condition A, above, and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- E. Once the project is complete, and prior to October 7, 2015, the applicant shall submit a final "as built" map and/or other evidence that all work has been properly completed in accordance with the approved plans.
- F. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- G. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- H. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (October 7, 2015). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

Chairman Cameron read the following agenda item:

Coastal Site Plan Review #170-D, Land Filling & Regrading Application #77-D, Tom & Kathleen Arrix, 138 Goodwives River Road. Proposing to modify and expand existing driveway; establish motor court with associated retaining walls; install terrace; and to perform related site development activities within a regulated area. *DECISION DEADLINE: 11/27/2014.*

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The Commission members reviewed the draft Resolution and made several clarifications that were agreed upon. The following motion was made: That the Commission adopt the Resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Olvany, seconded by Mr. Sini and unanimously approved. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
OCTOBER 7, 2014**

Application Number: Coastal Site Plan Review #170-D
Land Filling & Regrading Application #77-D

Street Address: 138 Goodwives River Road
Assessor's Map #62 Lot #84-A

Name and Address of Applicant & Property Owner: Tom & Kathleen Arrix
138 Goodwives River Road
Darien, CT 06820

Name and Address of Applicant & Applicant's Representative: Adam Cesanek
Doyle Herman Design Assoc.
125 Greenwich Avenue

Greenwich, CT

Activity Being Applied For: Proposing to modify and expand existing driveway; establish motor court with associated retaining walls; install terrace; and to perform related site development activities within a regulated area.

Property Location: The subject property is located on the east side of Goodwives River Road approximately 10 feet south of its intersection with Salem Straits.

Zone: R-1

Date of Public Hearing: September 23, 2014

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: September 12 & 19, 2014

Newspaper: Darien News

Date of Action: October 7, 2014

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
October 17, 2014

Newspaper: Darien News

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The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The application is to modify and expand existing driveway; establish motor court with associated retaining walls; install terrace; and to perform related site development activities within a regulated area. As part of this application, the pitch of the driveway will be reduced from 14%+/- to 10%+/- . It was noted at the public hearing that the house addition is now underway, and did not require review or action by the Commission.
2. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Sections 850 and 1000.
3. The Commission finds that the proposed activities with respect to the proposed addition to the residence, if properly implemented, are not contrary to the goals, objectives and policies of the Coastal Area Management Program.
4. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
5. The design, location, and specific details of the proposed work and site development will not adversely affect safety nor increase traffic congestion in the streets, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.
6. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #170-D and Land Filling & Regrading Application #77-D are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

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- A. Site development activity shall be in accordance with the following plans submitted to and reviewed by the Commission:
- Site Drainage Plan 138 Goodwives River Road, Plan Prepared for Thomas C. & Kathleen B. Arrix, by McChord Engineering Associates, dated February 1, 2013, and last revised 8-14-14.
 - Arrix Residence, 138 Goodwives River Road, Site Development, Utility and Landscaping Plan, by Doyle Herman Design Associates, LLC, dated August 14, 2014, Sheet No. L-1.3.
 - Arrix Residence, 138 Goodwives River Road, Site Preparation, Removals and Sediment Erosion Control/Staging Plan, by Doyle Herman Design Associates, LLC, dated August 14, 2014, Sheet No. L-2.0.
 - Arrix Residence, 138 Goodwives River Road, Grading Plan, by Doyle Herman Design Associates, LLC, dated August 19, 2014, Sheet No. L-3.0.
- B. Due to the nature of this project, the Commission hereby waives the requirement for a performance bond.
- C. The submitted plans show stormwater management which focuses on water quality due to the location of the property within the watershed.
- D. During the regrading and site work, the applicant shall utilize the sediment and erosion control measures shown on the plans in Condition A, above, and other measures as may be necessary due to site conditions, including tree protection. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the filling and regrading and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans, and as needed by site conditions. All erosion control measures must be maintained until the disturbed areas are stabilized.
- E. By December 7, 2014 (within the next 60 days), a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 138 Goodwives River Road to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A "Notice of Drainage Maintenance Plan" shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the start of the driveway work.
- F. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. Prior to the request for the Certificate of Occupancy for the addition, the applicant shall submit verification from a professional engineer in writing and/or photographs that all aspects of the site regrading and stormwater management have been completed in compliance with the approved plans referred to in Condition A, above.

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- G. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- H. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- I. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (October 7, 2015).

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this action and prior to the start of the driveway work, or this approval shall become null and void.

Chairman Cameron read the following agenda item:

Special Permit Application #281/Site Plan, Kumon of Darien, 899 Boston Post Road. Proposing to establish Kumon of Darien (a personal service use) in the first floor space formerly occupied by Koenig Art Emporium. *DECISION DEADLINE: 11/27/2014.*

Commission members discussed the draft Resolution and agreed to modify the minimum hours of operation each day. All members agreed. The following motion was made: That the Commission adopt the following Resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Olvany, seconded by Mr. DiDonna and unanimously approved. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 7, 2014**

Application Number: Special Permit Application #281/Site Plan

Street Address: 899 Boston Post Road
Assessor's Map #17 Lot #1-#2

Name and Address of Applicant &
and Applicant's Representative:

Kerri O'Brien
9 Patricia Lane
Darien, CT 06820

Name and Address of Property Owner:

Michael Sherman
19 Farm Hill Road

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Stamford, CT 06902

Activity Being Applied For: Proposing to establish Kumon of Darien (a personal service use) in the first floor space formerly occupied by Koenig Art Emporium. An HVAC unit in the rear of the building is also proposed.

Property Location: The subject property is located on the northwest side of Boston Post Road approximately 30 feet east of its intersection with West Avenue.

Zone: CBD

Date of Public Hearing: September 23, 2014

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: September 12 & 19, 2014

Newspaper: Darien News

Date of Action: October 7, 2014

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of
Action: October 17, 2014

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 670 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted application materials, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. This application seeks a Special Permit to establish Kumon of Darien (a personal service use) in the first floor space formerly occupied by Koenig Art Emporium. While there is a basement, that will be used for storage only, and no finished space or customer space will be in the basement. As part of this application, a book store of 385+/- square feet (16+/- x 24+/-) will be established in the front of the business (along Boston Post Road). The rear of the business, with access from the parking lot behind the building, will be for Kumon employees as well as customers arriving for instruction.

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2. At the public hearing, the applicant explained how the business will operate. There will be a maximum of five students attending Kumon at once, with the busiest times for the business being after 3pm on weekdays—after school hours. Students will enter through the back of the building. The bookstore in the front of the building will be a retail use, and the applicant has proposed specific days and hours of operation. The bookstore will sell books from a large recommended reading list as well as workbooks related to Kumon instruction.
3. The Commission believes that due to the nature, intensity, and hours of the use, and the small space of 1,460+/- square feet to be occupied, that there will be no traffic or parking issues. The building is part of the “Model Block”, with the rear parking area being a municipal lot. Employees may also use parking both directly behind the building, as well as in the upper Mansfield lot.
4. The location and size of the use, the nature and intensity of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that the application is in harmony with the orderly development of the district in which it is located.
5. The location and nature of the proposed use, the size and height of the building are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
6. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
7. The elements of the Site Plan, submitted as part of the Special Permit application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.
8. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

NOW THEREFORE BE IT RESOLVED that Special Permit Application #281/Site Plan is hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. The Commission finds that the proposed Kumon use as described by the applicant is considered a Personal Service Use, which is allowed by Special Permit in this zone. A floor plan was submitted with the application materials entitled, “Kumon Learning Center and Book Store”, received in the Planning and Zoning office on August 14, 2014.
- B. Because of the fact that all of the proposed work is interior work (except for the placement of a new HVAC unit in the back of the building), and there is no new impervious surface proposed except for that HVAC unit, the Commission hereby waives the requirement for stormwater management under Sections 888a(3) and 888a(4).

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- C. Due to this property's location in downtown Darien, the retail bookstore proposed as part of this application is essential, since the Commission's policy is to have welcoming storefronts on Boston Post Road. As proposed by the applicant and approved by the Commission herein, the bookstore in the front of this space shall be open a minimum of four days a week (except holidays) an average of six hours a day. The Commission encourages the bookstore (ie. The front door of the business) to be open beyond the minimum hours and on weekends. The Commission places no limits on the maximum hours of operation of either the bookstore or the Kumon use.
- D. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- E. The granting of this Special Permit approval does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. Review and approval will be needed from the Architectural Review Board (ARB) for any awnings or signage desired.
- F. This permit shall be subject to the provisions of Section 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (October 7, 2015). This may be extended as per Section 1009.

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit shall be filed in the Darien Land Records within 60 days of this approval, and prior to opening to the public.

Chairman Cameron read the following agenda item:

Business Site Plan #33-C/Special Permit, Douglas McKay/537 Post Road, LLC, 537 Boston Post Road. Proposing to convert office space to three apartments within 1,850+/- square feet of the second floor of the existing building at 537 Boston Post Road (above the Compleat Angler), as part of an "after-the-fact" permit. *PUBLIC HEARING CLOSED ON 9/23/2014. DECISION DEADLINE: 11/27/2014.*

Commission members reviewed the draft Resolution and the following motion was made: That the Commission adopt the following Resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Sini, seconded by Mr. DiDonna and unanimously approved. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 7, 2014**

Application Number: Business Site Plan #33-C/Special Permit

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Street Address: 537 Boston Post Road
Assessor's Map #14 Lot #36

Name and Address of Applicant: Douglas McKay
and Property Owner 537 Post Road, LLC
83 Gardiner Street
Darien, CT 06820

Activity Being Applied For: Proposing to convert office space to three apartments within 1,850+/- square feet of the second floor of the existing building at 537 Boston Post Road (above the Compleat Angler), as part of an "after-the-fact" permit.

Property Location: The subject property is located on the north side of Boston Post Road approximately 700 feet east of its intersection with Brookside Road.

Zone: DB-2

Date of Public Hearing: September 23, 2014

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: September 12 & 19, 2014

Newspaper: Darien News

Date of Action: October 7, 2014

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of
Action: October 17, 2014

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 620, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to convert office space to three apartments within 1,850+/- square feet of the second floor of the existing building at 537 Boston Post Road (above the Compleat Angler), as

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part of an “after-the-fact” permit. No changes are proposed to the exterior of the building. The three apartments had been rented, but were vacated. These second floor apartments are allowed as a Special Permit Use under Section 624h of the Darien Zoning Regulations.

2. Floor plans were submitted by the applicant showing the three proposed apartments: Apartment #1 is a studio of 380 square feet; Apartment #2 is a one-bedroom with 403 square feet; and Apartment #3 is a one-bedroom of 737 square feet. There is also a community laundry room. The floor plan notes “Sprinkler system will be installed by a fire safety engineer”. It also shows a secondary egress.
3. At the public hearing, a question arose regarding on-site parking. It was noted that shared parking agreements do not allow for reserved parking spaces, and thus, the apartment renters, employees who work on the site and the customers shall not have reserved parking on-site. The Commission does find that sufficient on-site parking exists for the three apartments in addition to the other uses on site.
4. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
5. The nature of the proposed use is such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
6. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
7. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Business Site Plan #33-C/Special Permit is hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. The modifications to convert the entire second floor of the building shall be in general conformance with the following plan submitted to and reviewed by the Commission. The Fire Marshal and Building Official may require modifications to these floor plans in order to meet the Fire and Building Codes:
 - 537 Post Road, 8-1/2” x 11” sketch with note: “Sprinkler system will be installed by a fire safety engineer.”This is the building shown as a 2-story brick building on the eastern front of the property shown on a survey entitled, “Property Survey prepared for Brian McKay 537-567 Boston Post Road”, Darien, CT, by William W. Seymour & Associates, dated August 23, 2007.
- B. The applicant submitted floor plans that note “Sprinkler system will be installed by a fire safety engineer”. It also shows a secondary egress. The applicant or property owner shall coordinate with the Darien Fire Marshal to implement the sprinkler system for the apartments and install

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the secondary egress in order to comply with Code and this approval. This will require a Fire Sprinkler System Permit through the Building Department. A separate Building Permit will be needed for the Fire Alarm. All work shall be fully completed prior to the tenants moving back into the units. As part of the review by the Fire Marshal and Building Official, certain walls and other improvements may need to be modified or removed so that the inspector can confirm that work was done properly and meets Code.

- C. If, at some time in the future, the property owner wishes to convert the entire second floor back to business and professional offices, they may do so, subject to an administrative Zoning Permit and compliance with any and all Fire Safety Code and Building Code requirements that are applicable at that time.
- D. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. The work will require Zoning and Building Permits and review by the Fire Marshal.
- E. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- F. This permit shall be subject to the provisions of Section 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (October 7, 2015). This may be extended as per Section 1009.

All provisions and details of the application and related materials shall be binding conditions of this action and such approval shall become final upon filing of a Special Permit in the Darien Land Records.

Chairman Cameron read the following agenda item:

Amendment of Business Site Plan #135-A(2), Venture Yoga, 10 Center Street, CBD Zone.

Request to establish "Row", a indoor rowing class within a second floor space.

Commission members reviewed the requested modification to allow indoor rowing classes in addition to the yoga classes. The following motion was made: That the Commission modify the Special Permit approval for the requested indoor rowing classes as per the applicant's request. The motion was made by Mr. Sini, seconded by Mr. Olvany and unanimously approved.

Chairman Cameron read the following agenda item:

Approval of Minutes

September 2, 2014

Several modifications and clarifications were discussed and agreed upon. The following motion was made: To adopt the corrected Minutes. The motion was made by Mr. Voigt, seconded by Mr.

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Sini. All voted in favor in favor except Mr. DiDonna and Mr. Cunningham who abstained because they had not been present for the meeting. The minutes were adopted by a vote of 4 to 0 to 2.

September 9, 2014

A motion to adopt the Minutes was made by Mr. Olvany, seconded by Mr. DiDonna and unanimously approved.

Mrs. Cameron noted that a public input session will be conducted by the Planning & Zoning Commission on October 22nd regarding the updating of the Plan of Conservation and Development. The meeting will be held in the Auditorium beginning at 7:30 P.M.

There being no further business, the following motion was made: That the meeting be adjourned. The motion was made by Mr. Voigt, seconded by Mr. Sini and unanimously approved. The meeting was adjourned at 9:40 P.M.

Respectfully submitted,

David J. Keating
Planning & Zoning Assistant Director

10.07.2014min